

# HOUSE BILL No. 1256

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-3.1-35.

**Synopsis:** Tax credit for federal tax on medical devices. Provides a tax credit against state tax liability for the amount of a taxpayer's federal medical device excise tax liability apportioned to Indiana.

**Effective:** January 1, 2015.

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**Austin, Heuer**

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January 14, 2014, read first time and referred to Committee on Ways and Means.

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PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

## HOUSE BILL No. 1256

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 6-3.1-35 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 3 JANUARY 1, 2015]:
- 4 **Chapter 35. Tax Credit for Federal Medical Device Excise Tax**
- 5 **Liability**
- 6 **Sec. 1. This chapter applies to taxable years beginning after**
- 7 **December 31, 2014.**
- 8 **Sec. 2. As used in this chapter, "department" refers to the**
- 9 **department of state revenue.**
- 10 **Sec. 3. As used in this chapter, "federal excise tax liability"**
- 11 **refers to a taxpayer's liability for the federal medical device excise**
- 12 **tax under Section 4191 of the Internal Revenue Code.**
- 13 **Sec. 4. As used in this chapter, "medical device" means a**
- 14 **product subject to the federal medical device excise tax under**
- 15 **Section 4191 of the Internal Revenue Code.**
- 16 **Sec. 5. As used in this chapter, "pass through entity" means:**



(1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);

(2) a partnership;

(3) a limited liability company; or

(4) a limited liability partnership.

Sec. 6. As used in this chapter, "qualified taxpayer" means a person who has federal excise tax liability.

Sec. 7. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

(1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);

(2) IC 6-5.5 (the financial institutions tax); and

(3) IC 27-1-18-2 (the insurance premiums tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 8. A qualified taxpayer is entitled to a credit against the qualified taxpayer's state tax liability for a taxable year in an amount equal to the amount of:

(1) the federal excise tax liability incurred by the qualified taxpayer during the taxable year; multiplied by

(2) the credit apportionment percentage determined for the qualified taxpayer under section 9 of this chapter.

Sec. 9. A qualified taxpayer's credit apportionment percentage is equal to the quotient determined in STEP THREE of the following formula expressed as a percentage:

**STEP ONE:** Determine the sum of the following receipts:

(A) The qualified taxpayer's receipts attributable to medical devices delivered or shipped to Indiana from within Indiana.

(B) The qualified taxpayer's receipts attributable to medical devices delivered or shipped to Indiana from outside Indiana.

(C) The qualified taxpayer's receipts attributable to medical devices delivered or shipped from Indiana to the United States Government.

(D) The qualified taxpayer's receipts attributable to medical devices delivered or shipped from Indiana to purchasers in states in which the qualified taxpayer is not subject to income tax.

**STEP TWO:** Determine the total amount of the qualified taxpayer's receipts attributable to medical devices shipped or delivered to purchasers inside and outside of Indiana.



**STEP THREE: Determine the quotient of:**

- (A) the STEP ONE result; divided by**
- (B) the STEP TWO amount.**

**Sec. 10. If a pass through entity is entitled to a credit under section 8 of this chapter but does not have state tax liability against which the tax credit may be applied, a shareholder, partner, or member of the pass through entity is entitled to a tax credit equal to:**

- (1) the tax credit determined for the pass through entity for the taxable year; multiplied by**
- (2) the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled.**

**Sec. 11. (a) If the credit provided by this chapter exceeds the taxpayer's state tax liability for the taxable year for which the credit is first claimed, the excess may be carried forward to succeeding taxable years and used as a credit against the taxpayer's state tax liability during those taxable years. Each time that the credit is carried forward to a succeeding taxable year, the credit is to be reduced by the amount that was used as a credit during the immediately preceding taxable year.**

**(b) A taxpayer is not entitled to any carryback or refund of any unused credit.**

**Sec. 12. To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department. The taxpayer shall submit to the department all information that the department determines is necessary for the calculation of the credit provided by this chapter.**

